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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA
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9 Moises Hernandez-Cerna,
10 Petitioner,
11 v.
12 Carla Hacker-Agnew, et al.,
13 Respondents.
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No. CV-18-00397-PHX-NVW

ORDER

15 Pending before the court is the Report and Recommendation (“R&R”) of
16 Magistrate Judge James F. Metcalf (Doc. 14) regarding petitioner’s Petition for Writ of
17 Habeas Corpus filed pursuant to 28 U.S.C. § 2254 (Doc. 1). The R&R recommends that
18 the Petition be denied and dismissed with prejudice. The Magistrate Judge advised the
19 parties that they had fourteen days to file objections to the R&R. (R&R at 21 (citing Rule
20 8(b), Rules Governing Section 2254 Proceedings). No objections were filed.

21 Because the parties did not file objections, the court need not review any of the
22 Magistrate Judge’s determinations on dispositive matters. See 28 U.S.C. § 636(b)(1);
23 Fed. R. Civ. P. 72(b); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003);
24 *Thomas v. Arn*, 474 U.S. 140, 149 (1985) (“[Section 636(b)(1)] does not . . . require any
25 review at all . . . of any issue that is not the subject of an objection.”). The absence of a
26 timely objection also means that error may not be assigned on appeal to any defect in the
27 rulings of the Magistrate Judge on any non-dispositive matters. Fed. R. Civ. P. 72(a) (“A
28 party may serve and file objections to the order within 14 days after being served with a

1 copy [of the magistrate's order]. A party may not assign as error a defect in the order not
2 timely objected to."); *Simpson v. Lear Astronics Corp.*, 77 F.3d 1170, 1174 (9th Cir.
3 1996); *Phillips v. GMC*, 289 F.3d 1117, 1120-21 (9th Cir. 2002).


4 Notwithstanding the absence of an objection, the court has reviewed the R&R and
5 finds that it is well taken. The court will accept the R&R and dismiss the Petition. *See*
6 28 U.S.C. § 636(b)(1) (stating that the district court "may accept, reject, or modify, in
7 whole or in part, the findings or recommendations made by the magistrate").

8 IT IS THEREFORE ORDERED that Report and Recommendation of the
9 Magistrate Judge (Doc. 14) is accepted.

10 IT IS FURTHER ORDERED that the Clerk of the Court enter judgment denying
11 and dismissing petitioner's Petition for Writ of Habeas Corpus filed pursuant to 28
12 U.S.C. § 2254 (Doc. 1) with prejudice. The Clerk shall terminate this action.

13 A request for a certificate of appealability is denied because appellant has not
14 shown that "jurists of reason would find it debatable whether the petition states a valid
15 claim of the denial of a constitutional right and that jurists of reason would find it
16 debatable whether the district court was correct in its procedural ruling." *Slack v.*
17 *McDaniel*, 529 U.S. 473, 484 (2000); see also 28 U.S.C. § 2253(c)(2); *Gonzalez v.*
18 *Thaler*, 132 S. Ct. 641, 648 (2012); *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003).

19 Dated this 22nd day of August, 2018.

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23 Neil V. Wake
24 Senior United States District Judge
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